IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

CRL.A.No. 868 of 2002()

CC.504/1999 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, KANNUR

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APPELLANT: COMPLAINANT:

MAKRI NAZER, S/O. MUHAMMED KUNHI,
A.P. HOUSE, NEAR KUJAHID PALLY,
VALAPATTANAM, KANNUR DISTRICT, THROUGH POWER OF
ATTORNEY HOLDER K.B. NAZER, S/O. UMMER, 29 YEARS,
A.P. HOUSE, NEAR SALAFI MAZJID, VALAPATTANAM,
KANNUR DISTRICT.

BY ADV. SRI.M.P.VIJAYAN

RESPONDENTS: ACCUSED & STATE:

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1. A. GEREESHAN, S/O. NARAYANAN,
ARAYAKANDI (H), VALLURANKADAVU,
KATTAMPALLI P.O., KANNUR DISTRICT.

2. STATE OF KERALA, REPRSENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 12/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.868 of 2002(C)

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Dated this the 12th day of November, 2007

J U D G M E N T

The appellant is the complainant in C.C.No.504/1999 in the file of the Judicial Magistrate of the First Class-II, Kannur, with respect to the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(i) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 30/11/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

Sd/-

K.R.UDAYABHANU,
Judge

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